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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,904	08/29/2001	Ulrika Hagrud	000500-299	5309

21839 7590 08/11/2004

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EXAMINER	
ANDERSON, CATHARINE L	
ART UNIT	**PAPER NUMBER**
3761	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/856,904	HAGRUD, ULRIKA	
	Examiner	Art Unit	
	C. Lynne Anderson	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 May 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 May 2004 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how the through-penetrating holes disclosed in claim 14 define an area, since the holes represent a portion of the material that has been removed. It appears that the laminate bonding locations, not the holes, are what define an area of material having relatively more tightly packed and finer capillaries.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynard et al. (WO 98/27904) in view of Berg et al. (4,685,909).

Lynard discloses all aspects of the claimed invention but remains silent as to the type of superabsorbent material comprising the absorbent body. Lynard discloses an absorbent article 20, as shown in figure 1, comprising a liquid impermeable backing sheet 40, an absorbent body 42, and a top sheet 38. The top sheet 38 comprises a liquid permeable, fibrous sheet of material, including thermoplastic material, as described on page 7, lines 4-11. A liquid transfer sheet 44 is located between the top sheet 38 and the absorbent body 42, as shown in figure 2. The liquid transfer sheet 44 comprises a liquid permeable, porous and resilient sheet of material, as described on page 8, lines 25-38. The top sheet 38 and liquid transfer sheet 44 are fused together at bonding locations 52 to form a laminate, as described on page 10, line 30-31. The liquid transfer sheet 44 is compressed at the bonding locations 52, as shown in figure 2. The absorbent body 42 comprises superabsorbent material, as described on page 14, lines 27-28. The bonding locations 52 are grouped into lines, the space between the bonding locations 52 of a group being less than the space between the bonding locations 52 of a neighboring group, as shown in figure 1. The areas of the article comprising bonding locations 52 are disposed throughout an area of the article, as shown in figure 1, which is fully capable of receiving the majority of the liquid to be absorbed by the article.

Berg discloses an absorbent article, as shown in figure 1, comprising an absorbent body 103. The absorbent body includes partially neutralized superabsorbent,

as disclosed in column 8, lines 1-24. The absorbent body disclosed by Berg protects the wearer from rashes and promotes skin health, as disclosed in column 2, lines 59-62.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Lynard with the absorbent body of Berg, to prevent rashes and promote skin health.

With respect to claim 3, Berg discloses partially neutralized superabsorbent having a degree of neutralization of less than 45%, as disclosed in column 8, lines 19-24. The pH of the superabsorbent disclosed by Berg is in the range of 3.0 to 5.5, as disclosed in column 7, lines 45-46.

With respect to claim 4, the bonding locations 52 are circular bonds, as shown in figure 1.

With respect to claim 5, the top sheet 38 has through-penetrating holes within the bonding locations, as shown in figure 2.

With respect to claim 6, the top sheet 38 is comprised of a nonwoven material, as described on page 7, lines 4-5.

With respect to claim 7, Lynard fails to disclose the type of nonwoven material that may be used to construct the top sheet 38. It would have been an obvious matter of design choice to construct the top sheet from a carded, thermobonded nonwoven material, as the applicant has not shown that this type of nonwoven serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with other nonwoven materials.

With respect to claim 8, Lynard discloses the absorbent article 20 as being 3mm thick on page 6, lines 16-20. According to the cross section of figure 2, the liquid transfer sheet 44 is therefore about 0.6 mm thick. Lynard further discloses the absorbent article 20 as being thicker than 3 mm, and the liquid transfer sheet 44 would therefore be thicker as well.

With respect to claims 9 and 10, the bonding locations 52 are arranged in mutually adjacent groups forming lines. The distance between the bonding locations 52 within a line (y) is about 1 mm, as measured in figure 1, and the distance between the bonding locations 52 in adjacent lines (x) is about 2 mm, giving an x/y ratio of 2/1.

With respect to claim 11, the bonding locations 52 are about 1.5 mm in diameter, as described on page 11, lines 26-27. According to figure 1, the distance between the bonding locations 52 within a line (y) is about 1.5 mm, and the distance between bonding locations 52 in adjacent lines (x) is about 3 mm. It would have been an obvious matter of design choice to make the distance between bonding locations within a group 1 mm, as the applicant has not shown that this distance serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with a distance of 1.5 mm between bonding locations.

With respect to claim 12, the absorbent article 20 is a sanitary napkin, as shown in figure 1.

With respect to claim 13, Berg discloses a pH in the range of 3.0 to 5.5, as disclosed in column 7, lines 45-46.

Claims 1, 3-4, 6-7, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani (5,613,960) in view of Berg et al. (4,685,909).

Mizutani discloses all aspects of the claimed invention but remains silent as to the type of superabsorbent material comprising the absorbent body. Mizutani discloses an absorbent article 1, as shown in figure 1, comprising a liquid impermeable backing sheet 3, an absorbent body 4, and a top sheet 2. The top sheet 2 comprises a liquid permeable, fibrous sheet of material, including thermoplastic material, as described in column 1, lines 27-30. A liquid transfer sheet 6 is located between the top sheet 2 and the absorbent body 4, as shown in figure 2. The liquid transfer sheet 6 comprises a liquid permeable, porous and resilient sheet of material, as described in column 2, lines 33-37. The top sheet 2 and liquid transfer sheet 6 are fused together at bonding locations 7 to form a laminate, as described in column 2, lines 46-49. The liquid transfer sheet 6 is compressed at the bonding locations 7, as shown in figure 2. The bonding locations 7 are grouped into lines, the space between the bonding locations 7 of a group being less than the space between the bonding locations 7 of a neighboring group, as shown in figure 1. The areas of the article comprising bonding locations 7 are positioned to receive the majority of the liquid to be absorbed by the article.

Berg discloses an absorbent article, as shown in figure 1, comprising an absorbent body 103. The absorbent body includes partially neutralized superabsorbent, as disclosed in column 8, lines 1-24. The absorbent body disclosed by Berg protects the wearer from rashes and promotes skin health, as disclosed in column 2, lines 59-62.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Mizutani with the absorbent body of Berg, to prevent rashes and promote skin health.

With respect to claim 3, Berg discloses partially neutralized superabsorbent having a degree of neutralization of less than 45%, as disclosed in column 8, lines 19-24. The pH of the superabsorbent disclosed by Berg is in the range of 3.0 to 5.5, as disclosed in column 7, lines 45-46.

With respect to claim 4, the bonding locations 7 are linear bonds, as shown in figure 1.

With respect to claim 6, the top sheet 2 is comprised of a nonwoven material, as described in column 2, lines 28-29.

With respect to claim 7, Mizutani fails to disclose the type of nonwoven material that may be used to construct the top sheet. It would have been an obvious matter of design choice to construct the top sheet from a carded, thermobonded nonwoven material, as the applicant has not shown that this type of nonwoven serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with other nonwoven materials.

With respect to claims 9 and 10, the smallest distance (x) between two mutually adjacent groups, two lines, of laminate bonding locations 7 is at least twice the size of the distance (y) between two laminate bonding locations 7 in their respective groups, each line, as shown in figure 1. The ratio of x/y is about 10/1, as measured from figure 1.

With respect to claim 11, it would have been an obvious matter of design choice to make the distance between bonding locations within a group 1 mm, as the applicant has not shown that this distance serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well with a distance of 1.5 mm between bonding locations.

With respect to claim 12, the absorbent article 1 is a sanitary napkin, as shown in figure 1.

With respect to claim 13, Berg discloses a pH in the range of 3.0 to 5.5, as disclosed in column 7, lines 45-46.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani (5,613,960) in view of Berg et al. (4,685,909) and further in view of Allen, Jr. et al. (5,522,810).

Mizutani, as modified by Berg, discloses all aspects of the claimed invention but remains silent as to the size of the sanitary napkin. Allen teaches the use of a liquid transfer sheet 22 in an absorbent article 10, as shown in figure 4. The liquid transfer sheet 22 has a thickness of 2.5 mm, as disclosed in column 8, lines 1-4, to provide sufficient separation of the absorbent core from the wearer of the article. It would therefore have been obvious to one of ordinary skill in the art at the time of invention to make the liquid transfer layer of Mizutani 2.5 mm thick, as taught by Allen, to provide sufficient separation of the absorbent core from the wearer of the article.

Response to Arguments

Applicant's arguments filed 14 May 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the area of the top sheet comprising the bonding locations being configured to receive a major part of the liquid to be absorbed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 1 discloses the laminate bonding locations being disposed throughout an area of the absorbent article so as to receive a major part of the liquid. In other words, the portion of the article beneath the bonding locations is meant to receive the liquid. The absorbent body below the top sheet is designed to receive the liquid and disperse it throughout the absorbent body. The absorbent body of Lynard is designed to receive the liquid absorbed, and therefore fulfills the claimed limitations.

In response to applicant's argument that Lynard fails to disclose through-penetrating holes within the laminate bonding locations, it is noted that the through-penetrating holes of Lynard are disposed throughout the surface of the article, and therefore some will inherently fall in the laminate bonding locations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cla
July 30, 2004

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